

Federal Personnel Manual System

FPM Letter 552-1

SUBJECT: Judgment Offsets

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Supplement 552-1*

RETAIN UNTIL SUPERSEDED

Washington, D. C. 20415
September 19, 1985

Heads of Departments and Independent Establishments:

1. This letter gives agencies the text of a new FPM Supplement 552-1, entitled Judgment Offsets. This supplement has been prepared by the United States Department of Justice, which is solely responsible for its content.

2. Public Law 97-276, "Continuing Appropriations for Fiscal Year 1983" (96 Stat. 1186), enacted on October 2, 1982, authorizes the collection of debts by offset against the current pay of any employee if a court judgment has been obtained against the employee by the United States. The Department of Justice has produced a new FPM Supplement 552-1 (copy attached) to set the procedures that will be used to process judgment offsets.

Attachments



A handwritten signature in dark ink, reading "Constance Horner".

Constance Horner
Director

Inquiries: Judgment Enforcement Unit, Civil Division, Department of Justice (202) 724-7303

Code: 552, Judgment Offsets

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*Supplement not yet issued.

The material in this supplement has been prepared by the U.S. Department of Justice and is included in the Federal Personnel Manual for the information of Federal agencies. Formal questions concerning the legal basis for offset should be directed to the Judgment Enforcement Unit, Civil Division, Department of Justice (202) 724-7303; questions concerning a specific offset request should be directed to the official identified in subchapter S2-1 of this supplement who requested the offset.

FPM Supplement 552-1

Judgment Offsets

Contents

Subchapter S1 General

- S1-1. Purpose
- S1-2. Background
- S1-3. Definitions
- S1-4. Pay Subject to Judgment Offset

Subchapter S2 Initiation of Judgment Offset

- S2-1. Who Initiates Judgment Offset
- S2-2. Initiating Judgment Offset with a Requisition for Offset

Subchapter S3 Collection Reports

- S3-1. Certified Statement of Account/Prepared by Creditor Agency
- S3-2. Reports for Employees Who Transfer before Collection is Completed/Prepared by Paying Agency
- S3-3. Reports for Employees Who Separate before Collection is Completed/Prepared by Paying Agency

Subchapter S4 Completion of Judgment Offset

- S4-1. Notification of Final Judgment Offset Deduction/Provided by Litigating Agency
- S4-2. Notification of Completed Judgment Offset/Provided by Litigating Agency

Subchapter S1. General

S1-1. Purpose

This supplement sets procedures for the enforced collection of debts by offset against the current pay account of any Federal Government employee where a court has determined that an employee is indebted to the United States and has entered a judgment against the employee in favor of the United States.

S1-2. Background

Section 124 of Public Law 97-276, 96 Stat. 1195-1196 (§124), provides a Federal employee salary offset remedy apart from the administrative salary offset provisions of 5 U.S.C. 5514. Section 5514 authorizes salary offset whenever the head of a Federal agency or other designated person determines an employee is indebted to the United States. Section 124, though, is limited to cases where a court determines an employee is indebted to the United States.

Specifically, when a court of the United States, in an action or suit brought against a Federal employee by the United States, determines that the employee is indebted to the United States and enters a judgment against the employee, §124 allows collection of the debt by deduction in reasonable amounts from the current pay account of the employee. The deductions may be made monthly or at officially established regular pay period intervals.

The maximum amount deducted for any period ordinarily may not exceed one-fourth (25%) of the net disposable pay (see definitions) from which the deduction is made. However, collection must be made during the period the individual is

expected to be employed. So, deduction of a greater amount may be necessary to make the collection within the expected employment period. At a minimum, the amount deducted for any period must equal at least 15% of the net disposable pay from which the deduction is made.

If the employee retires, resigns, or the employment period ends for some other reason before the debt is completely collected, deductions must be made from subsequent payments of any nature due the individual from the paying agency or the United States Treasury.

SI-3. Definitions

Terms used in this supplement are defined as follows:

a. "Agency" means any agency of the executive, legislative or judicial branch, including the U. S. Postal Service and the U.S. Postal Rate Commission.

b. "Any Federal Government employee" means those employees included in the definition of "employee" at 5 CFR §550.1103 and any other employee of the Federal Government.

c. "Creditor agency" means the agency to which the debt is owed.

d. "Current pay account" means disposable basic pay, special pay, incentive pay, or in the case of an employee not entitled to basic pay, other authorized pay.

e. "Disposable pay" means that part of pay remaining after the deduction of amounts required by law for--

(1) Federal employment taxes;

(2) The U.S. Soldiers' and Airmen's Home;

(3) Fines and forfeitures ordered by a court martial or by a commanding officer;

(4) Federal, State, or local income taxes no greater than would be the case if the employee claimed all dependents to which he or she is entitled and such ad-

ditional amounts for which the employee presents evidence of a tax obligation supporting the additional withholding;

(5) Health insurance premiums;

(6) Normal retirement contributions (e.g., Civil Service Retirement deductions, Survivor Benefit Plan or Retired Serviceman's Family Protection Plan); and

(7) Normal life insurance premiums, exclusive of optional life insurance premiums (e.g., Serviceman's Group Life Insurance and "basic" Federal Employees' Group Life Insurance premiums).

f. "Paying agency" means the agency employing the individual and authorizing the payment of his or her current pay.

S1-4. Pay Subject to Judgment Offset

The following types of disposable pay are subject to Federal employee judgment debtor offset under §124 of Public Law 97-276:

a. Basic pay;

b. Special pay;

c. Incentive pay;

d. In the case of an employee not entitled to basic pay, other authorized pay; and

e. In the case of an employee who retires, resigns, or whose employment ends for some other reason before collection of the debt is completed, subsequent payments of any kind due the individual from the paying agency or the United States Treasury.

Subchapter S2. Initiation of Judgment Offset

S2-1. Who Initiates Judgment Offset

An offset against the current pay account of a Federal employee judgment debtor

will be initiated by--

- a. An appropriate official of the Judgment Enforcement Unit, Civil Division, Department of Justice;
- b. The United States Attorney in whose judicial district the judgment against the employee is entered; or
- c. An appropriate official of a creditor agency authorized to sue on its own claims and that has litigated the claim resulting in the entry of a judgment against the employee in a court of the United States.

S2-2. Initiating Judgment Offset with a Requisition for Offset

a. An official identified in subchapter S2-1 of this supplement must initiate the judgment offset by doing the following:

(1) Providing a "Requisition for Offset" (Requisition) letter (see attachment 2) to the paying agency of the employee against whom the judgment is entered; and

(2) Sending a copy of the Requisition to the creditor agency representative responsible for handling the claim, the Office of the General Counsel of the employee's paying agency, and the employee.

b. The Requisition must be written on the letterhead of the agency that litigated the claim and be addressed to the appropriate official of the employee's paying agency, as designated in Appendix A immediately following 5 CFR 581.501, and must include--

- (1) The employee's name;
- (2) The employee's Social Security Number;
- (3) The litigating agency's file number and court docket number;
- (4) The name of the creditor agency (to which the offset deductions should be credited);
- (5) The creditor agency's file or claim identification number;

- (6) An attested copy of the judgment entered against the employee;
- (7) The date the judgment was entered by the court;
- (8) The name and address of the appropriate official identified in subchapter S2-1 of this supplement who is initiating the judgment offset and to whom all offset deductions must be forwarded; and
- (9) The balance due on the judgment (including an itemization of the principal amount of the judgment, the court costs and the amount of Federal postjudgment interest (as provided for under 28 U.S.C. 1961) accrued to the date of the Requisition), and the rate of Federal postjudgment interest that will continue to accrue until the judgment is satisfied. (Federal postjudgment interest must be computed daily to the date of payment and must be compounded annually. See 28 U.S.C. 1961(a) and (b).)

c. Since due process was provided to the employee by a court of the United States prior to the entry of the judgment and a Requisition submitted according to this supplement, judgment offsets do not require further due process procedures.

Subchapter S3. Collection Reports

S3-1. Certified Statement of Account/Prepared by Creditor Agency

a. Annually, on the anniversary of the date judgment was entered against the employee, the appropriate office in the creditor agency must provide a cumulative Certified Statement of Account (Statement) to--

- (1) The initiating official of record on the Requisition (see subchapter S2-1 of this supplement);
- (2) The appropriate official of the employee's paying agency (see subchapter S2-2b of this supplement);
- (3) The Office of the General Counsel of the employee's paying agency; and
- (4) The employee.

b. The cumulative Statement must include the following information to be derived from the official accounts receivable records maintained by the creditor agency:

(1) The information described in subchapter S2-2b(1), (2), (3), (4), (5) and (9) of this supplement;

(2) The amount of Federal postjudgment interest that has accrued on the judgment between the date of the Requisition and the date of the Statement;

(3) An itemization of the dates and amount of each offset deduction credited to the judgment during the one year period before the date of the Statement;

(4) An itemization of the total amount credited toward court costs, accrued interest, and the principal amount of the judgment; and

(5) The total unpaid balance due on the judgment as of the date of the Statement.

c. Offset deductions must first be applied to court costs, second to accrued Federal postjudgment interest, and third to principal. See Woodward v. Jewell, 140 U.S. 247, 248 (1891); United States v. Briggs Manufacturing Company, 460 F.2d 1195, 1196 (9th Cir. 1972).

S3-2. Reports for Employees Who Transfer before Collection Is Completed/Prepared by Paying Agency

a. If the employee's records are transferred to a different paying agency before the collection is completed, the old paying agency must--

(1) Certify the total amount of the judgment offset deductions made from the employee's current pay according to its records;

(2) Give a copy of the certification of the amount of judgment offset deductions to the initiating official of record on the Requisition (see subchapter S2-1 of this supplement) and those identified in subchapter S2-2a(2), along with notice of the employee's transfer to a new paying agency; and

(3) Attach the original copy of the certification of the amount of judgment offset deductions and copies of any Certified Statements of Account to the Requisition and send these documents to the new paying agency for action by inserting them in the employee's official personnel folder (OPF), if one is being forwarded. If not, send these documents along with any other information on the employee to be forwarded.

b. The initiating official of record on the Requisition (see subchapter S2-1 of this supplement) is responsible for seeing that collection of the judgment debt is resumed by the new paying agency.

S3-3. Reports for Employees Who Separate before Collection Is Completed/Prepared by Paying Agency

a. If the employee separates, the total amount (not merely 25%) of any final salary, lump-sum leave, or other payments due the employee from the paying agency must be used to pay the debt in full. If these payments are insufficient to pay the debt completely and the employee is entitled to payments from the Civil Service Retirement and Disability Fund (Fund) or other similar payments, the paying agency must--

(1) Certify the total amount of the judgment offset deductions made from the employee's current pay according to its records;

(2) Give a copy of the certification of the amount of the judgment offset deductions to the initiating official of record on the Requisition (see subchapter S2-1 of this supplement) and those identified in subchapter S2-2a(2), along with notice of the employee's separation and entitlement to retirement or other benefits; and

(3) Send a copy of the certification and the Requisition as information to the appropriate official of the agency responsible for paying the subsequent benefit.

b. If the employee separates and the paying agency is unaware of his or her entitlement to subsequent benefits of any kind from the Federal Government, the paying agency must--

(1) Certify the total amount of the judgment offset deductions made from the employee's current pay according to its records; and

(2) Give a copy of the certification of the amount of judgment offset deductions to the initiating official of record on the Requisition (see subchapter S2-1 of this supplement) and those identified in subchapter S2-2a(2), along with notice of the employee's separation and the paying agency's lack of information on the employee's eligibility for subsequent benefits payable by the Federal Government.

c. In the situations described in subchapter S3-3a and b of this supplement, the initiating official of record on the Requisition (see subchapter S2-1 of this supplement) is responsible for seeing that further collection action is taken on the judgment debt. To initiate recovery of any remaining judgment amount by means of offset from the Civil Service Retirement and Disability Fund, promptly submit a completed Standard Form 2805 and two (2) attested copies of the judgment entered against the employee to the Office of Personnel Management.

Subchapter S4. Completion of Judgment Offset

S4-1. Notification of Final Judgment Offset Deduction/Provided by Litigating Agency

a. Based upon the established amount of each judgment offset deduction and the balance due from the employee, the initiating official of record on the Requisition (see subchapter S2-1 of this supplement) must provide a written "Notification of Final Judgment Offset Deduction" to the appropriate official of the employee's paying agency (see subchapter S2-2b of this supplement) at least ninety (90) days before the completion of the judgment offset. A copy of the notification must be provided to those identified in subchapter S2-2a(2).

b. The Notification of Final Judgment Offset Deduction (see attachment 3) must include the following:

(1) The information identified in subchapter S2-2b(1), (2), (3), (4) and (5) of this supplement;

(2) The date (or specified pay interval) on which the final judgment offset deduction must be made to satisfy the balance due on the judgment and complete the judgment offset; and

(3) The exact amount of the final judgment offset deduction to be made. (The amount of the final deduction may not be the same as the amount of the earlier deductions. So, the last deduction must only be for the amount necessary to complete the judgment offset.)

c. The initiating official of record on the Requisition (see subchapter S2-1 of this supplement) and the appropriate official of the employee's paying agency (see subchapter S2-2b of this supplement) should coordinate the final offset deduction to avoid collecting a greater amount than the employee owes.

S4-2 Notification of Completed Judgment Offset/Provided by Litigating Agency

a. Upon completion of the judgment offset, the initiating official of record on the Requisition (see subchapter S2-1 of this supplement) will see that a Satisfaction of Judgment and any other necessary documents are filed in the court(s) of record and judgment lien(s) of record are released. Copies of these documents will serve as notification of completed judgment offset and will be provided to--

(1) The appropriate official of the employee's paying agency (see subchapter S2-2b of this supplement) and

(2) Those identified in subchapter S2-2a(2) of this supplement.

REQUISITION FOR OFFSET LETTER

[on letterhead of agency that litigated a debt claim
resulting in the entry of a Judgment against a Federal
employee in a court of the United States]

[Date]

| _____ |
Name of Appropriate Official of Employee's
Paying Agency
Title
Mailing Address

(As designated in Appendix A following
5 CFR 581.501)

| _____ |
RE: REQUISITION FOR OFFSET
(Initiation of Federal employee judgment debtor offset
under §124 of Public Law 97-276.)

Federal Employee Judgment Debtor: _____

Judgment Debtor's SSN: _____

Requisitioning Agency's File/Claim No.: _____

Civil Action: United States v. _____
Civil No. _____ - _____
U.S. District Court for the _____
District of _____

Creditor Agency: _____

Creditor Agency's File/Claim No.: _____

Dear _____ :

We believe the above-named judgment debtor is employed by your agency. The U.S. District Court cited above entered a Judgment for the United States against this individual on the _____ day of _____, 19____. The amount of the Judgment is \$_____. , plus Federal postjudgment interest (under 28 U.S.C. 1961) at the annual rate of _____% from the Judgment date, and court costs in the amount of \$_____. An attested copy of the Judgment is attached.

At the present time, the total unpaid balance due on the Judgment is \$_____. (includes \$_____ principal, \$_____ Federal postjudgment interest accrued to the date of this letter, and \$_____ court costs). Federal postjudgment interest, at the annual rate of _____%, will continue to accrue from the date of this letter until the Judgment is satisfied.

We have been unable to collect the Judgment in full and the named judgment debtor has ignored our demands for prompt payment. Accordingly, we request that payroll deductions in the amount of one-fourth (25%) of this judgment debtor's current pay account (basic pay, special pay, incentive pay or, in the case of an individual not entitled to basic pay, other authorized pay) begin immediately. If the judgment debtor retires, resigns, or the employment period ends for some other reason before collection of the Judgment is completed, deductions must be made from any subsequent payments due the individual from your agency or the United States Treasury. This request is made under §124 of Public Law 97-276, 96 Stat. 1195-1196, and FPM Supplement 552-1, that sets Federal guidelines for the enforced collection of debts by judgment offset against the current pay account of any Federal employee judgment debtor.

All judgment offset deductions should be made payable to (name of litigating agency) and mailed to:

Name and complete mailing address of
appropriate official of agency that
litigated the claim and is requesting
initiation of judgment offset--to be
provided by official identified in
subchapter S2-1 of FPM Supplement
552-1.

Please note that on the anniversary date of the entry of the attached Judgment and each year thereafter, an appropriate official of the creditor agency will provide to you and your agency's Office of General Counsel a cumulative Certified Statement of Account that will include the information specified in subchapter S3-1 of FPM Supplement 552-1.

In addition, ninety (90) days prior to collection of the entire Judgment amount, we will provide to you and your agency's Office of General Counsel written notice of when the offset will be completed and other information as specified in subchapter S4-1 of FPM Supplement 552-1.

Upon collection of the entire Judgment amount, we will take action to insure that a Satisfaction of Judgment and any other necessary documents are filed in the court(s) of record and judgment lien(s) of record are released. This office will then provide a copy of these documents to you and your agency's Office of General Counsel as specified in subchapter S4-2 of FPM Supplement 552-1.

If we can be of assistance to you in this matter, please contact _____
or _____ of this office on FTS _____.

Sincerely,

[Name and title of agency
official requisitioning
the offset]

Attachment

cc: Office of General Counsel
[Employee's Paying Agency]
[Mailing Address]

[Creditor Agency Representative
Responsible for Handling the
Claim]
[Mailing Address]

[Federal Employee Judgment Debtor]
[Mailing Address]

NOTIFICATION OF FINAL JUDGMENT OFFSET DEDUCTION

[on letterhead of agency that litigated a debt claim
resulting in the entry of a Judgment against a Federal
employee in a court of the United States]

[Date]

Name of Appropriate Official of Employee's
Paying Agency
Title
Mailing Address

(As designated in Appendix A
following 5 CFR 581.501)

RE: NOTIFICATION OF FINAL JUDGMENT OFFSET DEDUCTION
(Federal employee judgment debtor offset under §124 of Public Law 97-276.)

Federal Employee Judgment Debtor: _____

Judgment Debtor's SSN: _____

Requisitioning Agency's File/Claim No.: _____

Civil Action: United States v. _____
Civil No. _____ - _____
U.S. District Court for the _____
District of _____

Creditor Agency: _____

Creditor Agency's File/Claim No.: _____

Dear _____ :

On _____, we provided a "Requisition for Offset" letter to you and, as a result, have received from your agency regular offset deductions from the current pay account of the above-named judgment debtor. This letter notifies you of the date and amount of the final deduction that must be made to satisfy the balance due on the Judgment and complete the judgment offset.

Based upon the established amount of the offset deductions received to date and the balance due on the Judgment, we have determined that the final judgment offset deduction should be made by your agency on _____ (date or specified pay period interval) _____. The exact amount of this final offset deduction should be \$ _____.



Upon receipt of the final judgment offset deduction, we will take action to insure that a Satisfaction of Judgment and any other necessary documents are filed in the court(s) of record and judgment lien(s) of record are released. This office will then provide a copy of these documents to you, your agency's Office of General Counsel and the employee as specified in subchapter S4-2 of FPM Supplement 552-1.

If we can be of assistance to you or you require further information, please contact _____ or _____ of this office on FTS _____.

Sincerely,

[Name and title of agency
official who requisitioned
the offset]

cc: Office of General Counsel
[Employee's Paying Agency]
[Mailing Address]

[Creditor Agency Representative
Responsible for Handling the
Claim]
[Mailing Address]

[Federal Employee Judgment Debtor]
[Mailing Address]